United Nations A/HRC/38/L.10/Rev.1

General Assembly

Distr.: Limited
4 July 2018

Original: English

Human Rights Council
Thirty-eighth session
18 June–6 July 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Albania,* Argentina,* Australia, Austria,* Belgium, Bosnia and Herzegovina,* Benin,* Brazil, Bulgaria,* Chile, Congo,* Croatia, Cyprus,* Czechia,* Denmark,* Estonia,* Finland,* France,* Germany, Greece,* Haiti,* Iceland,* Ireland,* Italy,* Latvia,* Liechtenstein,* Lithuania,* Luxembourg,* Malawi,* Malta,* Mexico, Monaco,* Montenegro,* Netherlands,* Nigeria, Norway,* Paraguay,* Poland,* Portugal,* Romania,* Slovakia, Slovenia, Spain, Sweden,* Switzerland, the former Yugoslav Republic of Macedonia,* Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland: draft resolution

38/... The promotion, protection and enjoyment of human rights on the Internet

The Human Rights Council,

Guided by the Charter of the United Nations,

Reaffirming the human rights and fundamental freedoms enshrined in the Universal Declaration of Human Rights and relevant international human rights treaties, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

Recalling all relevant resolutions of the Commission on Human Rights and the Human Rights Council on the right to freedom of opinion and expression, in particular Council resolutions 20/8 of 5 July 2012, 26/13 of 26 June 2014 and 32/13 of 1 July 2016 on the promotion, protection and enjoyment of human rights on the Internet, and Council resolutions 12/16 of 2 October 2009 on freedom of opinion and expression, 28/16 of 26 March 2015 and 34/7 of 23 March 2017 on the right to privacy in the digital age, 23/2 of 13 June 2013 on the role of freedom of opinion and expression in women's empowerment, and 31/7 of 23 March 2016 on the rights of the child: information and communications technologies and child sexual exploitation, and recalling also General Assembly resolutions 68/167 of 18 December 2013, 69/166 of 18 December 2014 and 71/199 of 19 December 2016 on the right to privacy in the digital age, 70/184 of 22 December 2015 on information and communications technologies for development, and 70/125 of 16 December 2015 containing the outcome document of the high-level meeting of the General Assembly on the overall review of the implementation of the outcomes of the World Summit on the Information Society,

* State not a member of the Human Rights Council.

Please recycle

Welcoming the adoption of the 2030 Agenda for Sustainable Development, and recognizing that the spread of information and communications technology and global interconnectedness has great potential to accelerate human progress, to bridge the digital divides and to develop knowledge societies,

Recalling that business enterprises have a responsibility to respect human rights as set out in the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, and that the obligation and the primary responsibility to promote and protect human rights and fundamental freedoms lie with the State,

Taking note with appreciation of the report of the Office of the United Nations High Commissioner for Human Rights entitled "Promotion, protection and enjoyment of human rights on the Internet: ways to bridge the gender digital divide from a human rights perspective"[1] and of the recommendations contained therein, in particular with regard to combating gender-based violence online,

Bearing in mind previous relevant reports of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and of the Special Rapporteur on the right to privacy,

Noting the launch by the General Conference of the United Nations Educational, Scientific and Cultural Organization of a process to develop an Internet universality indicator framework to assess the contribution to sustainable development from an Internet based on respect for human rights, openness and accessibility to all and guided by multi-stakeholder participation,

Noting also the Global Multi-stakeholder Meeting on the Future of Internet Governance, held in São Paulo, Brazil, on 23 and 24 April 2014, at which participants acknowledged, inter alia, the need for human rights to underpin Internet governance, and that rights that people have offline must also be protected online, as well as the session of the Internet Governance Forum held in Geneva from 18 to 21 December 2017 and previous sessions of the Forum,

Noting further the importance of building confidence and trust in the Internet, not least with regard to freedom of opinion and expression, privacy and other human rights, so that the potential of the Internet as, inter alia, an enabler for development and innovation can be realized, with full cooperation between Governments, civil society, the private sector, the technical community and academia,

Expressing concern at the increasing use, in a globalized society, by terrorists and their supporters, of information and communications technologies, and noting in this regard that the prevention and suppression of terrorism is a public interest of great importance, while reaffirming that States must ensure that any measures taken to combat terrorism are in compliance with their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law,

Recognizing that privacy online is important for the realization of the right to freedom of expression and to hold opinions without interference, and the right to freedom of peaceful assembly and association,

Emphasizing that, in the digital age, technical solutions to secure and protect the confidentiality of digital communications, including measures for encryption and anonymity, can be important to ensure the enjoyment of human rights, in particular the rights to privacy, to freedom of expression and to freedom of peaceful assembly and association,

Emphasizing also that access to information on the Internet facilitates vast opportunities in many spheres of life, including for affordable and inclusive education globally, and is therefore an important tool to facilitate promotion of the right to education, while underlining the need to address digital literacy and the digital divides, as they affect

[1] A/HRC/35/9

the enjoyment of the right to education, and also underlining the important role that international cooperation can play in this regard,

Expressing concern that many forms of digital divide remain between and within countries, and between men and women and boys and girls, and recognizing the need to close them, including through international cooperation, and recognizing also that the gender digital divide, which includes significant gender disparities in access to and use of information and communications technology, undermines women's full enjoyment of their human rights,

Recognizing that violations and abuses of women's rights online are a growing global concern that hinder the equal exercise and enjoyment of human rights and fundamental freedoms on the basis of gender, and may deter women from using information and communications technology, which can exacerbate the gender digital divide and widen gender inequalities in society,

Stressing the importance of empowering all women and girls by enhancing their access to information and communications technology, by promoting digital literacy and the participation of women and girls in education and training on information and communications technology, and by encouraging women and girls to embark on careers in the sciences and in information and communications technology,

Recalling articles 9 and 21 of the Convention on the Rights of Persons with Disabilities, which, inter alia, call upon States parties to take appropriate measures to promote access for persons with disabilities to new information and communications technology and systems, including the Internet,

Recognizing that, for the Internet to remain global, open and interoperable, it is imperative that States address security concerns in accordance with their international human rights obligations, in particular with regard to freedom of opinion and expression, freedom of association, and privacy,

Noting with concern the various forms of undue restriction of freedom of opinion and expression online, including where States have manipulated or suppressed online expression in violation of international law,

Expressing concern about the spread of disinformation and propaganda on the Internet, which can be designed and implemented so as to mislead, to violate human rights and privacy and to incite violence, hatred, discrimination or hostility,

Concerned at the arbitrary or unlawful collection, retention, processing and use or disclosure of personal data on the Internet, which could violate or abuse human rights,

Deeply concerned at all human rights violations and abuses committed against persons for exercising their human rights and fundamental freedoms on the Internet, and the impunity for these violations and abuses,

Deeply concerned also at measures in violation of international human rights law that aim to or that intentionally prevent or disrupt access to or dissemination of information online,

Emphasizing the particular risks with regard to the safety of journalists in the digital age, including the particular vulnerability of journalists to becoming targets of unlawful or arbitrary surveillance and/or interception of communications, in violation of their rights to privacy and to freedom of expression,

Stressing the importance of applying a human rights-based approach when providing and expanding access to the Internet, and of the Internet being open, accessible and nurtured by multi-stakeholder participation,

Recognizing that international human rights law should guide private sector actors and be the basis for their policies,

Considering the key importance of government engagement with all relevant stakeholders, including civil society, the private sector, the technical community and academia, in promoting and protecting human rights and fundamental freedoms online,

1. *Affirms* that the same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one's choice, in accordance with article 19 of the Universal Declaration of Human Rights and of the International Covenant on Civil and Political Rights;

2. *Recognizes* the global and open nature of the Internet as a driving force in accelerating progress towards development in its various forms, including in achieving the Sustainable Development Goals;

3. *Calls upon* all States to promote and facilitate international cooperation aimed at the development of media and information and communication facilities and technology in all countries;

4. *Affirms* that quality education plays a decisive role in development, and therefore calls upon all States to promote digital literacy and to facilitate access to information on the Internet for all children, which can be an important tool in facilitating the promotion of the right to education, and to support similar learning modules outside of schools;

5. *Calls upon* all States to bridge the digital divides, including the gender digital divide, and to enhance the use of information and communications technology, in order to promote the full enjoyment of human rights for all, including by:

(a) Fostering an enabling online environment that is safe and conducive to engagement by all, without discrimination and with consideration for individuals facing systemic inequalities;

(b) Maintaining and enhancing efforts to promote access to information on the Internet as one means of facilitating affordable and inclusive education globally, underlining the need to address digital literacy and the digital divides;

(c) Promoting equal opportunities, including gender equality, in the design and implementation of information and communications technology and in mainstreaming a gender perspective in policy decisions and the frameworks that guide them;

(d) Applying a comprehensive human rights-based approach in providing and expanding access to information and communications technology, and promoting, in consultation with all sections of society, including business enterprises and civil society actors, policies and guidelines for information and communications technology that include specific attention to gender considerations;

6. *Calls upon* States to ensure effective remedies for human rights violations, including those relating to the Internet, in accordance with their international obligations;

7. *Encourages* all States to take appropriate measures to promote, with the participation of persons with disabilities, the design, development, production and distribution of information and communications technology and systems, including assistive and adaptive technologies, that are accessible to persons with disabilities;

8. *Calls upon* all States to address security concerns on the Internet in accordance with their international human rights obligations to ensure the protection of all human rights online, in particular freedom of opinion and expression, freedom of association, and privacy, including through democratic and transparent national institutions, based on the rule of law, in a way that ensures freedom and security on the Internet so that it can continue to be a vibrant force that generates economic, social and cultural development;

9. *Encourages* business enterprises to work towards enabling technical solutions to secure and protect the confidentiality of digital communications, which may include measures for encryption and anonymity, and calls upon States not to interfere with the use of such technical solutions, with any restrictions thereon complying with States' obligations under international human rights law;

10. *Condemns unequivocally* all human rights violations and abuses such as torture, extrajudicial killings, enforced disappearances and arbitrary detention, expulsion,

intimidation and harassment, as well as trafficking in persons, and sexual and gender-based violence, committed against persons for exercising their human rights and fundamental freedoms on the Internet, and calls upon all States to ensure accountability in this regard;

11. *Also condemns unequivocally* online attacks against women, including sexual and gender-based violence and abuse of women, in particular where women journalists, media workers, public officials or others engaging in public debate are targeted for their expression, and calls for gender-sensitive responses that take into account the particular forms of online discrimination;

12. *Calls upon* States to create and maintain, in law and in practice, a safe and enabling online environment for the enjoyment of human rights so that journalists may perform their work independently and without undue or unlawful interference, including by allowing them to secure their communications and to protect the confidentiality of their sources;

13. *Condemns unequivocally* measures in violation of international human rights law that prevent or disrupt an individual's ability to seek, receive or impart information online, calls upon all States to refrain from and cease such measures, and also calls upon States to ensure that all domestic laws, policies and practices are consistent with their international human rights obligations with regard to freedom of opinion and expression online;

14. *Condemns* all undue restrictions of freedom of opinion and expression online that violate international law, and notes with concern that such restrictions have a significant impact on women and girls and other individuals who may face multiple and intersecting forms of discrimination;

15. *Stresses* the importance of combating advocacy of hatred on the Internet, which constitutes incitement to discrimination or violence, including by promoting tolerance, education and dialogue;

16. *Calls upon* States, while fully respecting their human rights obligations and commitments regarding freedom of opinion and expression, to encourage media training, educational campaigns and other efforts aimed at identifying and raising awareness about information online that may be deliberately misleading or false;

17. *Urges* States to adopt, implement and, where necessary, reform laws, regulations, policies and other measures concerning personal data and privacy protection online, in order to prevent, mitigate and remedy the arbitrary or unlawful collection, retention, processing, use or disclosure of personal data on the Internet that could violate human rights;

18. *Calls upon* all States to consider formulating, through transparent and inclusive processes with all stakeholders, and adopting national Internet-related public policies that have at their core the objective of universal access, and the enjoyment of human rights;

19. *Encourages* special procedures to take these issues into account within their existing mandates, as applicable;

20. *Decides* to continue its consideration of the promotion, protection and enjoyment of human rights, including the right to freedom of expression, on the Internet and with other information and communications technology, as well as of how the Internet can be an important tool for fostering citizen and civil society participation, for the realization of development in every community and for exercising human rights, in accordance with its programme of work.